

**COMMONWEALTH OF KENTUCKY
MINE SAFETY REVIEW COMMISSION
ADMINISTRATIVE ACTION NO. 03-MSRC-008**

**COMMONWEALTH OF KENTUCKY,
DEPARTMENT OF MINES AND MINERALS**

COMPLAINANT

v.

**KENNETH HAMILTON
And SIMON RATLIFF**

RESPONDENTS

FINAL ORDER REGARDING SIMON RATLIFF

This matter having come before the Commission on the Joint Motion to Approve Settlement Agreement between the Complainant and Respondent Simon Ratliff, and the members of the Commission having reviewed the Settlement Agreement filed on June 29, 2003 in the matter herein, and the Commissioners being sufficiently advised,

IT IS HEREBY ORDERED as follows:

1. The Joint Motion to Approve Settlement Agreement is **GRANTED**;
2. The Administrative Hearing, scheduled for October 9, 2003 is **CANCELED**;
3. Effective July 21, 2003, the Respondent, Simon Ratliff's Electrical Certificate, # PE-***-**, issued by the Commonwealth of Kentucky, shall be **SUSPENDED** until such time as the Respondent completes four (4) hours of electrical training and passes the Kentucky electrical examination;
4. Failure to complete the aforementioned electrical training and pass the electrical examination on or before July 20, 2004 shall result in the

permanent revocation of Respondent Ratliff's Electrical Certificate, # PE-***-**;

5. The Respondent, Simon Ratliff's Underground Mine Foreman's Certificate, # A-***-**, issued by the Commonwealth of Kentucky, shall placed on **PROBATION** for a period of two (2) years, effective July 21, 2003;

6. During said probationary period, if Respondent Ratliff willfully violates any state or federal mine safety laws or regulations, the KDMM may file a motion with the Mine Safety Review Commission to revoke certificate # A-***-** for the remainder of the two (2) year probationary period;

7. The Settlement Agreement signed by the parties and filed with the Commission shall be incorporated by reference and attached hereto;

8. This Final Order shall be considered to constitute a "first offense" as that term is defined in 805 KAR 8:010, Section 1(5). Future allegations of separate offenses by Respondent Ratliff, resulting in an adjudication of guilt by the Commission, shall be deemed "subsequent offenses" as defined by 805 KAR 8:010, Section 1(13);

9. This Final Order represents a final disposition of all issues between the Complainant and the Respondent, Simon Ratliff, in this matter. Failure to comply with the terms and conditions of this Final Order may result in further action by the Commission; and

10. **Appellate rights:** Pursuant to KRS 351.194(8) and KRS 13B.140(1), an appeal of an order of the Commission must be filed in the Franklin Circuit Court within thirty (30) days of the entry of this Final Order. The petition shall include the names and addresses of all parties of record in

this proceeding and shall include a statement of the grounds upon which review is requested. A copy of this Final Order shall accompany the petition. Copies of the petition must be served upon the Commission and all parties of record in this proceeding.

Entered this _____ day of August 2003.

BAYARD V. COLLIER, CHAIR
MINE SAFETY REVIEW COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing FINAL ORDER REGARDING KENNETH HAMILTON was served by certified mail, return receipt requested, and by regular mail, postage pre-paid to the following this _____ day of August 2003:

SIMON RATLIFF

LOOKOUT KY *****

Respondent

And by regular mail, postage pre-paid to:

KENNETH HAMILTON

TEABERRY KY *****

Respondent

And by messenger mail to:

COMMISSIONER FRANK DELZER
DEPT. OF MINES & MINERALS
1025 CAPITAL CENTER DRIVE
FRANKFORT KY 40601

HON. TONY OPPEGARD
GENERAL COUNSEL
DEPT. OF MINES & MINERALS
1025 CAPITAL CENTER DRIVE
FRANKFORT KY 40601

And the original shall be kept on file:

MINE SAFETY REVIEW COMMISSION
132 BRIGHTON PARK BLVD.
FRANKFORT KY 40601

DIANE SCHULER FLEMING
GENERAL COUNSEL
MINE SAFETY REVIEW COMMISSION

KENTUCKY MINE SAFETY REVIEW COMMISSION

KENTUCKY DEPT. OF MINES & MINERALS)
)
Complainant)
)
v.) Administrative Action No. 03-MSRC-008
)
)
KENNETH HAMILTON & SIMON RATLIFF)
)
Respondents)
)

SETTLEMENT AGREEMENT BETWEEN KDMM & SIMON RATLIFF

Come the Complainant, the Kentucky Department of Mines & Minerals (“KDMM”; “the Department”) and Respondent Simon Ratliff (“Ratliff”), and hereby state that they have agreed to a settlement of the above-styled disciplinary proceeding, according to the following terms:

In consideration for the dismissal of this action against him, Ratliff hereby agrees to the **SUSPENSION OF HIS ELECTRICAL CERTIFICATE (# PE-***-**) UNTIL HE COMPLETES 4 HOURS OF ELECTRICAL TRAINING AND PASSES THE KENTUCKY ELECTRICAL EXAMINATION¹**, at which time his electrical certificate will be reinstated. Ratliff further agrees that **IF HE DOES NOT TAKE THE AGREED UPON TRAINING AND PASS THE ELECTRICAL EXAMINATION WITHIN ONE YEAR**

¹ Said electrical training will be provided by David Johnson, KDMM’s Chief Electrical Inspector, at KDMM’s Hazard District office. In addition, the electrical examination will be administered by Inspector Johnson at the Hazard office..

FROM THE DATE THIS SETTLEMENT AGREEMENT TAKES EFFECT, HIS ELECTRICAL CERTIFICATE WILL BE PERMANENTLY REVOKED.

In consideration for the dismissal of this action against him, Ratliff also hereby agrees to the **PROBATION OF HIS UNDERGROUND MINE FOREMAN'S CERTIFICATE (# A-***-**) FOR A PERIOD OF TWO (2) YEARS.** Both the suspension of Ratliff's electrical certificate and the probation of his underground mine foreman's certificate will be effective upon the signing of this Settlement Agreement by both parties.

During the period of probation regarding his underground mine foreman's certificate, Ratliff agrees to comply with all state and federal mine safety and health laws and regulations. The willful violation by Ratliff of any of said laws or regulations may result in the Department filing a motion with the Mine Safety Review Commission ("the Commission") to revoke Ratliff's underground mine foreman's certificate for the remainder of the two (2) year probationary period.² In that case, Ratliff would be entitled to a hearing before the Commission on the allegations against him.

Ratliff further agrees that this Settlement Agreement and any final order issued herein by the Mine Safety Review Commission will be considered by the Commission to constitute a "first offense", as that term is defined at 805 KAR 8:010, Section 1 (5); and that any future adjudication against him by the Commission - regarding a separate alleged offense - will be deemed a "subsequent offense" as defined at 805 KAR 8:010, Section 1 (13).

² If the circumstances warranted, KDMM would also retain the right to file a separate action with the Commission seeking other penalties against the Respondent for his actions.

Ratliff understands and agrees that he has had the opportunity to retain an attorney to represent him in this matter, but that he has chosen to represent himself. Ratliff further states that he has carefully read and considered this Settlement Agreement prior to signing the Agreement.

SIMON RATLIFF

Lookout, Kentucky *****

FRANK X. DELZER, Commissioner
Kentucky Dept. of Mines & Minerals
P.O. Box 2244
Frankfort, Kentucky 40602

DATE

DATE